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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,277	12/23/2002	Lennart Westerberg	128.815USN	6215

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FASTH LAW OFFICES (ROLF FASTH)  
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SOUTHERN PINES, NC 28387-4301

EXAMINER
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NECKEL, ALEXA DOROSHENK

ART UNIT	PAPER NUMBER
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1764

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/031,277

Applicant(s)

WESTERBERG ET AL.

Examiner

Alexa D. Neckel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 December 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 02-25-02.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the internal liquor levels of at least 1.5m, 2m and 3m (claims 21-23); a cyclone (as recited in claims 27 and 28); a liquid filled branch-off to the feed vessel (claim 29); a pump design to pump slurry with a substantial amount of coarse burned limed (claim 30); and a pump designed to crush oversized burned lime between a rotor part and a stationary part (claim 31) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

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the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Double Patenting***

2. Claims 20-32 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-8 of copending Application No. 10/031,278. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 20-23, 29, 32 and 33 are rejected under 35 U.S.C. 102(e) as being anticipated by Stromberg et al. (5,753,075).

With respect to claim 20, Stromberg et al. discloses a feeding device (510, figure 4) comprising:

a feeding device (510) having an upper part (87) with an inlet for slurry (86);

an elongated slender feed vessel (326) operatively connected thereto with a lower outlet (350);

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a trap disposed in the feeding device (321) comprising a discharge device (323) and agitating means (22), both located at the bottom part; and

a pump (351) operatively connected to the feeding device (310).

With regard to claims 21-23, the level of material within the vessel is an operational condition not given weight in an apparatus claim. An apparatus claim covers what a device is, not what a device does. MPEP 2114. The claims continue to read on the apparatus of Stromberg et al.

With respect to claim 29, Stromberg et al. further discloses a liquid filled branch-off (88) to the feed vessel (81 and 321).

With respect to claim 32, Stromberg et al. further discloses a second pump (351') with a higher pressure rating than the first pump (351) (col. 9, line 65- col. 10, line 7).

With respect to claim 33, the agitating means (22) is an inlet for receiving liquor (Col. 7, lines 25-28).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stromberg et al. (5,753,075).

With respect to claims 24-26, Stromberg et al. fails to disclose any particular dimensions for the device. Change in size and shape is not patently distinct over the

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prior art absent persuasive evidence that the particular configuration of the claimed invention is significant. See *In re Rose*, 220 F.2d 459, 105 USPQ 237 (CCPA 1955); *In re Rinehart*, 531 F.2d 1048, 189 USPQ 143 (CCPA 1976); *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

With respect to claims 30 and 31, Stromberg et al. fails to disclose any particular design for the pump (351). It would have been obvious to one of ordinary skill in the art at the time the invention was made to select any pump known to the art which would effectively pump the desired materials flowing there through.

Claims 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stromberg et al. (5,753,075) as applied to claim 20 above, and further in view of Yap (5,858,214).

With respect to claims 27 and 28, Stromberg et al. discloses that some form of de-watering device can be located in the top of the feeding device (col. 13, lines 9-19), but fails to specifically disclose a cyclone.

Yap teaches wherein a cyclone can be used for de-watering a slurry (col. 4, lines 32-34). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a cyclone, as taught by Yap as the de-watering device of Stromberg et al. as it is merely the selection of slurry de-watering means known to be effective and one of ordinary skill would have a reasonable expectation of success in doing so.

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**Conclusion**

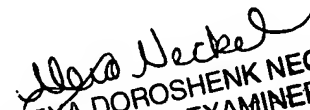
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexa D. Neckel whose telephone number is 571-272-1446. The examiner can normally be reached on Monday - Thursday from 9:00 AM - 7:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on 571-272-1444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alexa D. Neckel  
Primary Examiner  
Art Unit 1764

December 12, 2005

  
ALEXA DOROSHENK NECKEL  
PRIMARY EXAMINER